IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE C.V. RAMULU

WRIT PETITION No.15863 of 1997

Between:

1. The Flag Officer Commanding-in-Chief

(for CSO (P&A)), Headquarters, Eastern

Naval Command, Naval Base Post,

Visakhapatnam.

2. The Commanding Officer, INS, Virbahu

Naval Base Post, Visakhapatnam ..... PETITIONERS

AND

1. The Authority under the Minimum Wages Act

and Asst. Commissioner of Labour, Circle II,

Visakhapatnam.

2. N. Rama Rao

3. S. Srinivasa Rao

4. V.Anantha Rao

5. S.Govinda Rao

6. K. Appala Raju

7. G.Sri Ramulu

8. G.Appanna

9. G. Govinda Rao

10.B.Ramakrishna

11.T.Maheshwar Rao

12.K. Srinivasa Rao

13.T.Raju

14.G.Eswara Rao

15.S.Raju

16. M.Sreenu Babu

17.A.Ananda Babu

18.K. Siva Ram

19.K.Nageswara Rao

20.B.Sita Rao

21.A.Srinu Babu

22.O.Srinivasa Rao

23.B.Sunny Babu

The address of all the respondents 2 to 23

is C/o M.Rama Rao, Dr.No.62-09-2, Malkapuram,

Sriharipuram,Visakhapatnam. **.....**RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more specifically one in the nature of Writ of Mandamus declaring the order passed by the 1st respondent i.e. the Authority under the Minimum Wages Act and also the Assistant Commissioner of Labour, Circle II, Visakhapatnam, in M.W.No.104/95 dt.20.4.1997 as illegal and set aside the same.

Counsel for the Petitioner: Mr.P. BHASKARA MOHAN

Counsel for the Respondent No.1: G.P. for Labour

Counsel for the respondents 2 to 23 : Mr. D. NARASING RAO

The Court made the following :

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JUDGMENT:

This writ petition is filed by the Management of 'Samudrika' – Naval Auditorium at Visakhapatnam – being aggrieved by the Award passed by the Authority under Section 20 of the Minimum Wages Act,1948 (Assistant Commissioner of Labour, Circle II, Visakhapatnam) in Case No.M.W.104 of 1995, dated 20-4-1997.

Respondents 2 to 23 herein filed a petition before the said Authority seeking differential wages under the Minimum Wages Act,1948 (for short 'the Act'). The same was taken up for consideration by the 1st respondent. After elaborate consideration of both oral and documentary evidence held that the Management of 'Samudrika' is amenable to the provisions of the Act and awarded an amount of Rs.74,457.50 to respondents 2 to 23 herein towards the difference of minimum rates of wages and compensation.

The above application was resisted by the Management-petitioner herein stating that any dispute under the Act or otherwise ought to have been routed through the Central Labour Authorities and not the State Labour Commissioner, since the appropriate authority under the Act was the Central Government, as, Samudrika – Naval Auditorium – is part and parcel of Central Government organization i.e. Indian Navy (defence). In this regard, the 1st respondent, after considering the oral and documentary evidence, particularly Ex.A2, gave a finding that Samudrika is an Establishment covered under Employment 'Cinemas' under item No.13 of Part I of the Schedule under the Act. As such, G.O.Ms.No.31, dated 6-3-1991 was applicable and it is also a 'commercial establishment' since sale of tickets and screening of commercial films, shown to Naval personnel and their families are there; whether there was a profit motive or not, is immaterial. It was also held that the respondent-employees are entitled for minimum rates of wages fixed by the State Government. Accordingly, petitioners herein were directed to deposit an amount of Rs.74,457.50 before the Assistant Commissioner of Labour, Circle II, Visakhapatnam.

At the threshold, the learned counsel for the petitioners submitted that 'Samudrika' is owned and maintained by the Indian Navy. Therefore, the provisions of the Act have no application to it. Assuming that the provisions of the Act are applicable, the appropriate authority to consider the matter is the Central Labour Commissioner, but not the State Labour Commissioner. In this regard, the learned counsel sought to

justify that 'Samudrika' is part and parcel of naval establishment and is an organ of the State within the meaning of Article 12 of the Constitution of India. Therefore, the 1st respondent ought not to have taken up the matter for consideration for awarding the minimum wages. He had also drawn attention of the Court to the Constitution of Samudrika under Ex.A2 and contended that a bare look at Ex.A2 would clearly indicate that it is part and parcel of Indian Navy. The same is managed by the Officers of the Indian Navy.

Heard both sides and gone through the entire material on record.

What all Ex.A2 indicates is that Samudrika – Naval Auditorium – would be administered by the Commodore Submarines (East)/Commanding Officer INS Virbahu Naval Staff as to administration of personnel, supervision, maintenance of all machineries and equipment and issuing administrative instructions regarding screening of films, routines etc. However, all the employees will be selected and recruited by the Administrator and they would work purely on honorary basis and would be entitled for honorarium, which would be revisable from time to time with the approval of the higher authorities. The honorarium will be paid from Samudrika non-public funds. Apart from the employees working on honorarium, some other personnel were also provided from among the Naval Command. A bank account would be opened in the name of Samudrika funds. A cafetaria fund of Samudrika would be maintained and income and expenditure will be accounted by the Cash Accounts. The screening of entertainment films was regulated and number of seats, working hours etc. was also mentioned. An audit board comprising '3' Officers of the Indian Navy would be appointed by Head Office. Admittedly, the cinematograph licence was taken from the Government of Andhra Pradesh and the Cafetaria was being run within the premises of Samudrika. The audit and other supervision as mentioned in Ex.A2 was entrusted to the naval staff since Samudrika was located within the premises of the Naval Dockyard at Visakhapatnam and being in defence area it requires regulations etc. But that itself does not mean that it is part and parcel of the Indian Navy. May be, the hall belongs to the Indian Navy and some lectures and seminars are also organized for the benefit of the Navy personnel. But, insofar as screening of films regularly was concerned, it was purely for the private benefit and welfare of the naval staff. Therefore, Ex.A2 is nothing but a document regulating the activities of Samudrika. The activities of Samudrika cannot be said to be part and parcel of the Indian Navy. Hence, it is only a private body of Officers of the Naval

Command. As such, screening of movies engaging the respondent-employees cannot be said to be part and parcel of sovereign function and as such, it is not amenable to the jurisdiction of the 1st respondent. Therefore, I am of the opinion that the 1st respondent has rightly found that Samudrika is a cinema hall and exhibiting films and doing commercial activities by sale of tickets etc. Therefore, respondents 2 to 23, who were employees in the cinema theatre, are entitled for minimum rates of wages as fixed by the State Government. Further, the contention of the learned counsel for the petitioner that Indian Navy is a Central Government organization and even assuming that it is a theatre, the theatre workers are not entitled for minimum wages and the dispute ought to have been raised before the Central Labour Commissioner and not before the State Labour Commissioner is not acceptable. Except this, there is no other argument advanced on behalf of the petitioners. The impugned Award passed by the 1st respondent is cogent and convincing and does not call for interference at the hands of this Court. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

10th August, 2004

Prk

Sd/- P.Krishna Murthy

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Authority under the Minimum Wages Act

and Asst. Commissioner of Labour, Circle II,

Visakhapatnam.

2. 2 CCs to G.P. for Labour, High Court buildings, Hyderabad (O.U.T.)

3.2CD copies